

SENATE BILL REPORT

SB 5355

As Amended by House, April 9, 2013

Title: An act relating to implementing the unemployment insurance integrity provisions of the federal trade adjustment assistance extension act of 2011.

Brief Description: Implementing the unemployment insurance integrity provisions of the federal trade adjustment assistance extension act of 2011.

Sponsors: Senators Holmquist Newbry, Conway, Kohl-Welles and Keiser; by request of Employment Security Department.

Brief History:

Committee Activity: Commerce & Labor: 2/04/13, 2/22/13 [DP].

Passed Senate: 3/11/13, 49-0.

Passed House: 4/09/13, 89-4.

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Holmquist Newbry, Chair; Braun, Vice Chair; Conway, Ranking Member; Hasegawa, Hewitt, Keiser and King.

Staff: Mac Nicholson (786-7445)

Background: The unemployment compensation (UC) program is a federal and state program that provides wage replacement benefits to people who have become unemployed through no fault of their own. Generally, federal law governs the administration of the basic program, while state law addresses the issue of eligibility for benefits and benefit levels. A state payroll tax levied on employers provides funding for benefits, and a federal tax provides funding for the administration of the program. If state UC laws conform to federal UC laws, states will receive federal funding to administer their UC laws, and employers in those states may credit their state tax against their federal tax. Washington is considered a conforming state.

Recent federal legislation amended a number of federal UC program requirements, posing a conformity risk for states that fail to amend state laws accordingly.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

An individual who knowingly makes a false statement or representation in an attempt to obtain UC benefits will be disqualified from benefits for twenty six weeks. First time offenders are not subject to any additional monetary penalties, though repeat offenders are subject to longer disqualification periods and additional penalties calculated as a percentage of the amount of benefits overpaid or deemed overpaid – 26 percent for the second violation, and 50 percent for every additional violation. The additional penalties are deposited in the Employment Security Department's (ESD's) penalty and interest account.

Generally all UC benefits paid to claimants must be charged to the experience rating of the employer. However, certain benefit payments are not charged; rather, the benefits are socialized among all rate-paying employers. Benefits paid to an individual later determined to be ineligible are not charged, unless the claim became invalid due to the amendment of a report where the employer failed to report or inaccurately reported hours worked or wages paid.

Summary of Bill: An individual who makes a false statement or representation in an attempt to obtain UC benefits is subject to an additional penalty of 15 percent of the amount of benefits overpaid or deemed overpaid. This additional penalty, as well as the first 15 percent of the penalty imposed on repeat offenders, is deposited in the unemployment insurance trust fund.

An employer may not be granted benefit charge relief for benefit payments if:

- the benefit payment was made because the employer or their agent failed to respond timely or adequately to a written request for information;
- there is no good cause for the failure to respond as determined by ESD; and
- the employer or their agent has a pattern of such failures.

A pattern exists if the employer failed to respond without good cause leading to the payment of benefits at least three times in the previous two years, or on at least 20 percent of the current claims against the employer.

For employers that use agents, the actions of the agent count when determining whether the employer has a pattern of failing to respond.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on October 20, 2013.

Staff Summary of Public Testimony: PRO: This bill needs to pass because it addresses a conformity issue, that will save employer tax credits and administrative funding. ESD had a range of discretion to figure out the employer piece of the bill, and they undertook a good process and were responsive in crafting a fair deal.

Persons Testifying: PRO: Kris Tefft, Assn. of WA Business; Neil Gorrell, ESD.

House Amendment: Adds a provision requiring the Commissioner of ESD, when determining whether recovery of an overpayment from a claimant would be against equity and good conscience, to consider whether the employer or employer's agent failed to respond timely and adequately to an information request relating to the claim without good cause for the failure.